

PROCEEDINGS OF THE COMMON COUNCIL
IN REGULAR SESSION
TUESDAY, MARCH 28, 1995

CITY OF FORT WAYNE, INDIANA
JOURNAL OF THE PROCEEDINGS
OF THE COMMON COUNCIL

THE COMMON COUNCIL OF THE CITY OF FORT WAYNE MET IN THE
COUNCIL CHAMBERS Tuesday EVENING March 28, 1995,
IN Regular SESSION. PRESIDENT Donald J. Schmidt
IN THE CHAIR, COUNCIL ATTORNEY Stanley A. Levine, AND
Sandra E. Kennedy CITY CLERK, AT THE DESK, PRESENT THE
FOLLOWING MEMBERS _____ VIZ:

BRADBURY <u>Present</u>	EDMONDS <u>Absent</u>	GIAQUINTA <u>Present</u>
HENRY <u>Present</u>	LONG <u>Present</u>	LUNSEY <u>Present</u>
RAVINE <u>Present</u>	SCHMIDT <u>Present</u>	TALARICO <u>Present</u>

ABSENT: _____

COUNCILMEMBER: _____

THE MINUTES OF THE LAST REGULAR March 14, 19 95

SPECIAL _____, 19 _____

SESSION HAVING BEEN DELIVERED TO THE COUNCIL, WERE, ON MOTION,
APPROVED AND PUBLISHED.



The City of Fort Wayne

Paul Helmke, Mayor

March 27, 1995

COMMUNICATIONS FROM THE CITY PLAN COMMISSION

The Common Council of the
City of Fort Wayne
City-County Building
One Main Street
Fort Wayne, IN 46802

Dear Councilmembers:

Attached hereto is the recommendation of the City Plan Commission on one (1) ordinance concerning the vacation of public rights-of-way.

The proposed ordinance is designated as:

Bill No. G-95-02-07

Respectfully submitted,

CITY PLAN COMMISSION

Certified and signed this
27th day of March 1995.

A handwritten signature in cursive script, reading "Carol Kettler Sharp".

Carol Kettler Sharp
Secretary

/pb

XC: File

FACT SHEET

G-95-02-07

BILL NUMBER

**Division of Community
Development & Planning**

BRIEF TITLE

APPROVAL DEADLINE

REASON

Street & Alley Vacation Ordinance

DETAILS**Specific Location and/or Address**

Portion of Radcliffe Dr and adjacent alleys.

Reason for Project

Vacated area would allow for better access to the leased area to the west of their business.

Discussion (Including relationship to other Council actions)20 February 1995 - Public Hearing

Robert Kabisch, attorney for the Fort Wayne Foundry Pontiac Division, appeared before the Commission. Mr. Kabisch stated that Fort Wayne Foundry Pontiac Division has been at this location since 1933. He stated that the only right-of-way that has not been vacated north of Pontiac is this portion of Radcliffe Drive, along with a small "L" shaped alley which branches off Radcliffe Drive. He stated that on one side of Radcliffe Drive is Pontiac Foundry and on the other is Fruehauf Industrial Park. He stated that those are the only abutting property owners affected by this vacation request. He stated that Fruehauf has joined in the petition for the vacation. He stated that the property has no public access use. He stated that it would be well to return it to the private tax role. He stated that this is an area that is completely industrial. He stated that Pontiac Foundry is leasing a part of the Fruehauf property to the west and is also leasing a portion of the old Fruehauf warehouse for its metals division. He stated that this vacation would allow for

POSITIONS**RECOMMENDATIONS****Sponsor**

City Plan Commission

Area Affected

City Wide

Other Areas

**Applicants/
Proponents**

Applicant(s)
Ft Wayne Foundry Pontiac
Division
City Department

Other

Opponents

Groups or Individuals

Basis of Opposition

**Staff
Recommendation**☒ For ☐ Against

Reason Against

**Board or
Commission
Recommendation**

By

☒ For ☐ Against
☐ No Action Taken

☐ For with revisions to conditions
(See Details column for conditions)

**CITY COUNCIL
ACTIONS
(For Council
use only)**

☐ Pass ☐ Other
☐ Pass (as amended) ☐ Hold
☐ Council Sub. ☐ Do not pass

DETAILS

better access to the portion that is being leased.

Mel Smith questioned if there were any easements in the area to be vacated.

Mr. Kabisch stated that there are no easements that are being used.

There was no one else present who spoke in favor of or in opposition to the proposed vacation.

27 February 1995 - Business Meeting

Motion was made and seconded to return the ordinance to the Common Council with a DO PASS recommendation.

Of the six (6) members present, five (5) voted in favor of the motion, the Chair did not vote.

Motion carried.

Members Present: Linda Buskirk, Ernest Evans, Thomas Quirk, Dave Ross, Carol Kettler Sharp, Mel Smith

Members Absent: James Hoch, Donald Schmidt, Vicky VerPlanck

POLICY/PROGRAM IMPACT

Policy or Program Change	<input type="checkbox"/> No	<input type="checkbox"/> Yes
Operational Impact Assessment		

(This space for further discussion)

Project Start

Date 30 December 1994

Projected Completion or Occupancy

Date 20 March 1995

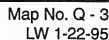
Fact Sheet Prepared by
Patricia Biancanello

Date 20 March 1995

Reviewed by

Date 22 March 1995

Reference or Case Number



R1	One-Family	B1	Limited Business	M1	Light Industrial
R2	Two-Family	B2	Planned Shopping Center	M2	General Industrial
R3	Multi-Family	B3	General Business	M3	Heavy Industrial
RA/RB	Residential	B4	Roadside Business	MHP	Mobile Home Park
PUD	Planned Unit Dev.	POD	Professional Office District		

Robert E. Kabisch, attorney for Fort Wayne Foundry, Pontiac Division, Inc. requests the vacation of a portion of a street and two alleys.

Location: 1) Radcliffe Drive, north of Pontiac Street
2) The E-W alley laying between lots 4 and 5 in Violands Add.
3) The unvacated portion of the N-S alley between lots 5-6 of Violands Addition and lots 113-114 of Abbotts Outlots

Legal: See file

Land Area: A total of approximately 0.66 acres

Zoning: The area is zoned M-3

Surroundings: North M-3
South M-3
East M-3
West M-3

Reason for Request: Not stated on petition

Neighborhood Assoc.: East Side Community Association

Neighborhood Plan: No comment.

Comprehensive Plan: No comment.

Planning Staff Discussion:

Radcliffe Drive is located east of Anthony Boulevard and north of Pontiac Street. The abutting property owners are Fort Wayne Foundry and Fruehauf Park, Inc., both of which have indicated their willingness to vacate these right-of-ways.

Radcliffe Drive is a forty foot wide right-of-way that would only serve these industrial developments. The east-west alley is 12 feet wide and intersects with the only remaining portion of the north-south 15 foot alley. The remainder of the north-south alley was apparently vacated in 1983 by General Ordinance G-25-83. At that time, staff questioned the advisability of leaving the northern stub of the alley as public right-of-way.

The street right-of-way is currently used by the abutting land owners and is gated off to limit access. There are utilities present, and either a relocation of a new easement would be required in order to maintain service. It appears unlikely that anyone else would use the street or alley if it were opened.

Both street and alley right-of-ways would serve an industrially zoned development area which has other existing access opportunities. The best use of this ground appears to be returning it to private development and putting it back on the tax rolls. Vacation should not impact property values, and in fact may allow for addition business growth.

Recommendation: Conditional Approval, contingent upon the petitioners providing utility easements and/or relocations as needed, and for the following reasons:

- 1) The right-of-ways apparently only serve the abutting property owners instead of the general public.
- 2) The right-of-ways are not needed for public access purposes, nor will vacation have any negative impacts on property values.
- 3) As the ground does not serve a public purpose, it would be in the best interests of the city to return the ground to private development and the tax rolls.

WHEREAS, FORT WAYNE FOUNDRY, PONTIAC DIVISION INC., has petitioned and requested the Fort Wayne City Plan Commission to hold a public hearing upon the vacation of the following dedicated public rights-of-way situated in Fort Wayne, Allen County, to-wit:

Beginning at the intersection of the North right-of-way line of East Pontiac Street and the East right-of-way line of Radcliffe Drive, said point being 5 feet North of the Southwest corner of Lot #17 in Violand's Addition to the City of Fort Wayne, according to the plat thereof, recorded in Plat Record #2, Page #96 in the Office of the Recorder of Allen County, Indiana; thence West along the North right-of-way line of East Pontiac Street Extended to the West a distance of 40 feet to the West right-of-way line of Radcliffe Drive, said point being the Southeast corner of Lot "C" in Freuhauf Industrial Addition to the City of Fort Wayne, according to the plat thereof, recorded in Plat Book #16 Page #64 in the Office of the Recorder of Allen County, Indiana; thence North with a deflection angle to the right of 91 degrees 19 minutes 30 seconds and along the West right-of-way line of Radcliffe Drive and East line of said Lot "C" a distance of 637 feet to the Southwest corner of a portion of Radcliffe Drive (formerly Doyle Drive) previously vacated and the Northeast corner of said Lot "C"; thence Southeast with a deflection angle of 117 degrees 14 minutes a distance of 44.97 feet to a point on the West line of said Violand's Addition and the Southeast corner of a portion of Radcliffe Drive (formerly Doyle Drive) previously vacated; thence South with a deflection angle of 62 degrees 46 minutes and along the West line of Violand's Addition and the East right-of-way line of Radcliffe Drive, a distance of 615.49 feet to the point of beginning, containing 0.575 acres.

TOGETHER with that certain alley lying between Lots 4 and 5 in the plat of Violand's Addition to the City of Fort Wayne and also so much of that certain alley lying between Lots 5 and 6 of Violand's Addition to the City of Fort Wayne and Lots 113 and 114 in Abbott's Outlots to the City of Fort Wayne as such alleys are recorded and dedicated in Plat Book 7B at page 59 in the Office of the Recorder of Allen County, Indiana.

all in accordance with the terms of Section 44, Chapter 174 of the Acts of 1947, of the General Assembly of the State of Indiana, as amended by Section 3 of Chapter 385 of the Acts of the General Assembly of the State of Indiana, Indiana Code Section 36-7-3-12; and,

WHEREAS, notice of such public hearing has been given by due and proper publication thereof;

WHEREAS, said vacation of dedicated public rights-of-way has been routed through the following departments: Street Engineering, Traffic Engineering, Water Pollution Control Engineering, Electrical Engineering, Park Board and through the Public Utility Companies.

NOW THEREFORE, BE IT RESOLVED by the Fort Wayne Board of Public Works that the vacation of said dedicated public rights-of-way hereinbefore described conforms to the general policy and pattern of development set out in the Master Plan of the City of Fort Wayne, Indiana.

BE IT FURTHER RESOLVED by the Board of Public Works that the vacation of said dedicated public rights-of-way hereinbefore described be and the same is hereby approved subject to easements as required by all public utilities occupying and using said portion of dedicated public rights-of-way or part thereof for the vacation and operation of its utility facilities shall not be deprived of said use on account of these proceedings unless any said utilities shall file a written consent to said vacation.

STATE OF INDIANA)

SS:

COUNTY OF ALLEN)

I, C. JAMES OWEN ^{MEMBER}, ~~Director~~ of the Board of Public Works, do hereby certify that attached hereto is a full, true and correct copy of a resolution adopted by the Fort Wayne Board of Public Works at their meeting held _____ and as same appears of record in the official records of the Board of Public Works.

DATED THIS 8 DAY OF MARCH 1995

FORT WAYNE BOARD OF PUBLIC WORKS

Linda Buskirk
Chairman, Board of Public Works

C. James Owen
C. James Owen
Member, Board of Public Works

Terrance P. McCaffrey
Terrance P. McCaffrey
Member, Board of Public Works

RESOLUTION

WHEREAS, FORT WAYNE FOUNDRY, PONTIAC DIVISION INC., has petitioned and requested the Fort Wayne City Plan Commission to hold a public hearing upon the vacation of the following dedicated public rights-of-way situated in Fort Wayne, Allen County, to-wit:

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TOGETHER with that certain alley lying between Lots 4 and 5 in the plat of Violand's Addition to the City of Fort Wayne and also so much of that certain alley lying between Lots 5 and 6 of Violand's Addition to the City of Fort Wayne and Lots 113 and 114 in Abbott's Outlots to the City of Fort Wayne as such alleys are recorded and dedicated in Plat Book 7B at page 59 in the Office of the Recorder of Allen County, Indiana.

all in accordance with the terms of Section 44, Chapter 174 of the Acts of 1947, of the General Assembly of the State of Indiana, as amended by Section 3 of Chapter 385 of the Acts of 1963 of the General Assembly of the State of Indiana, Indiana Code, Section 36-7-3-12.

WHEREAS, notice of such public hearing has been given by due and proper publication thereof; and,

WHEREAS, said public hearing was held on February 20, 1995 at 7:00 P.M. and at such hearing there were no objections of any kind or character which should prevent the vacation of said dedicated public rights-of-way.

WHEREAS, said vacation of dedicated public rights-of-way has been routed through the following departments: Street Engineering, Traffic Engineering, Water Engineering, Water Pollution Control Engineering, Street Light Engineering, Park Board and through the Public Utility Companies.

NOW THEREFORE, BE IT RESOLVED by the Fort Wayne City Plan Commission that the vacation of said dedicated rights-of-way hereinbefore described conforms to the general policy pattern of development set out in the Master Plan of the City of Fort Wayne, Indiana;

BE IT FURTHER RESOLVED by the Fort Wayne City Plan Commission that the vacation of said dedicated rights-of-way hereinbefore described be and the same is hereby approved.

BE IT FURTHER RESOLVED no public utility occupying and using said dedicated rights-of-way or part thereof for the vacation and operation of its utility facilities shall be deprived of said use on account of these proceedings unless any said utility shall file a written consent to said vacation.

BE IT FURTHER RESOLVED that the action of the Fort Wayne City Plan Commission be forwarded to the proper governing body having jurisdiction of the vacation of said dedicated rights-of-way in Allen County, Indiana.

STATE OF INDIANA))
COUNTY OF ALLEN) SS:

I, Carol Kettler Sharp, Secretary of the Fort Wayne City Plan Commission, do hereby certify that attached is a full true and correct copy of a resolution adopted by the Fort Wayne City Plan Commission following a public hearing of said Commission held, February 27, 1995 and as the same appears of record in the official records of said Plan Commission.

DATED THIS 2nd DAY OF March 1994


FORT WAYNE CITY PLAN COMMISSION

Carol Kettler Sharp
Secretary



MEMORANDUM

TO: City Council Members

FROM: Gary Stair,  Director of Planning, Community and Economic Development

DATE: March 20, 1995

SUBJECT: Recommendation from Plan Commission

The right-of-way vacation has been reviewed by the Fort Wayne Plan Commission and forwarded to you for final action. The Plan Commission's recommendation on this case, made after public hearing and review, has been certified by the Commission's Secretary and is summarized on the attached "Fact Sheet".

Occasionally, there will be a significant delay between the time the petition is filed and when the Plan Commission certifies its recommendation and forwards the case to you. This delay occurs when a petition receives "Conditional Approval" -- approval subject to the petitioner fulfilling certain obligations. In such cases the Plan Commission's staff holds the petition until all conditions have been met by the petitioner. Once all conditions have been satisfied, the case is forwarded to you.

As always, if you have any questions concerning the attached cases, please do not hesitate to call me or Pat Fahey of the Land Use Management staff at 427-1140.

/pb

1. Vacation Petition - Bill No. G-95-02-07

Amendment: Street and Alley Vacation Ordinance

Location: Portion of Radcliffe Drive and adjacent alleys.

Applicant: Fort Wayne Foundry Pontiac Division

Proponents: Robert Kabisch, attorney representing petitioner

Opponents: None

Summary of Discussion: This petition would allow for better access to the leased area of the business.

Staff Recommendation: Do Pass

Plan Commission Recommendation: Do Pass

Recommendation Given: February 27, 1995

Committee Session Date: The Committee Session date will depend upon the publication of the legal notice by Council staff.

THE COUNCIL THEN ADJOURNED

CERTIFICATE

I hereby certify that I am the duly elected, acting and incumbent City Clerk of Fort Wayne, Indiana, and as such the custodian of the records of the Common Council of said City and that the above and foregoing is the true, full and complete record of the proceedings the Common Council of the City of Fort Wayne, Indiana, for its Regular Session, held on 28th day of March, 19 95, that the numbered ordinances and resolutions shown therein were duly adopted by said Common Council on said date and were presented by me to the Mayor of the City of Fort Wayne and were signed and approved or disapproved by said Mayor and on the dates shown as to each such ordinance and resolution respectively; and that all such records, proceedings, ordinances and resolutions remain on file and record in my office.

WITNESS my hand and the official seal of the City of Fort Wayne, Indiana, this 30th day of March, 19 95.

Sandra E. Kennedy
City Clerk